

PROJECT HAWAIIAN JUSTICE

AN EDUCATIONAL INITIATIVE
ABOUT FEDERAL LEGISLATION

November 22, 1999

John Berry, Assistant Secretary
US Department of Interior
c/o Document Management Unit
1849 C Street, NW Mailstop-7229
Washington, DC 20240
FAX: (202) 219-1790


Re: Project Hawaiian Justice Demand Lists

Dear Mr. Berry:

Attached please find a number of people's demand lists. In the process of conducting workshops about the federal process and the experiences of Alaska Natives and American Indians, I requested that the participants fill out personal demand lists and forward them to you and Mr. Van Norman directly, or forward them to me so that I can forward them on to you. Please consider them part of the record on Hawaiian reconciliation, and in your deliberations and any subsequent reports or recommendations that may come out of your visit to Hawaii in December 1999.

Thank you for your time and attention to our cause.

Mālama Pono,



Jade Danner
PHJ Coordinator

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Federal Testimony of Jade Leialoha Danner, Project Hawaiian Justice Coordinator

Mark Van Norman, Director
Office of Tribal Justice
US Department of Justice

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I. Introduction

Aloha and mahalo for the opportunity to participate in the process of reconciliation between the United States and the Hawaiian peoples. My name is Jade Leialoha Danner and I am a Native Hawaiian. I currently live on Hawaiian Homelands in Anahola on the island of Kaua'i. As a graduate of the Kamehameha Schools, I have lived the past 11 years on the "mainland." I was born on a Navajo/Hopi reservation in Tuba City, Arizona and my family has spent the past 25 years living in the Inupiat village of Barrow, Alaska. I have spent the past several years as the Social Services Director for the Native Village of Barrow, a federally recognized tribe and prior to that, in their housing program as a Development Officer. I was responsible for the development of the tribal court system, the community juvenile justice system (Community Court), which acts as a referral court for Native and non-Native juvenile offenders, and the assertion of tribal rights in state court. The Community Court has served as a model for other Native communities across Alaska. I worked directly with the Juneau Area Office of the Bureau of Indian Affairs on a great number of issues, most notably, the creation of the statewide Alaska Native Indian Child Welfare Association. In addition, I was responsible for the administration of the 93-638 contract for social services, general assistance and Indian child welfare. In my capacity as a Development Officer for the Housing Department, I was responsible for administration of HUD programs in accordance with prescribed regulations and finding housing solutions for low-income Native families. In both capacities, I worked with the Departments of the Interior, Justice, State, Health & Human Services and Housing & Urban Development through regional and national offices on a regular basis.

Having grown up with and worked for other Native peoples on the continent, I have recently moved home to Hawai'i in an effort to serve my own people. I, along with other members of my family, have been particularly blessed with having lived among my own people, and Alaska Natives and American Indians. We have a unique vantage point from which to view the Hawaiian struggle for more self-determination and control in our own future. We have lived among the Navajo and Hopi, whose level of sovereignty

P.O. BOX 1976 KAPA'A, HI 96746 TEL: (808) 821-0004 FAX: (808) 821-1641 E-MAIL: DANNER@HAWAIIAN.NET

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and land base has been long defined, and whose relations with the states have been fairly stabilized. We have lived among the Inupiat, whose sovereignty and land base was more recently settled in a radically different way from the Native Americans, and whose struggle to master the tools of self-determination against state opposition continues today. Lastly, we have seen the devastation that a lack of sovereignty, or control in one's own future, has wrought for our own Hawaiian people, our own 'ohana (family), and ourselves.

Imbedded in us is a practical understanding of the history of Native peoples' relationships with the federal government, including the evolution of that relationship. Also imbedded is an understanding of the administrative processes of self-determination and a deep and abiding love of our own people, our own culture and our own way of life. More than that, I believe that we understand very firmly that our people did not arrive at this present state overnight, and that the process of reconciliation and healing will not occur overnight. It is with this in mind that my sister Robin Danner wrote the Project Hawaiian Justice initiative. It is with this in mind that I have deliberately refrained from taking a job so that I can bring Project Hawaiian Justice to our people in an effort to share our knowledge with the Hawaiian people and better facilitate the reconciliation process.

II. Project Hawaiian Justice Overview

Project Hawaiian Justice is an educational initiative to provide basic information about the federal legislative process and the experience of Alaska Natives and American Indians. It has been offered on the islands of Hawai'i, Maui, O'ahu, Moloka'i and Kaua'i. It is a workshop that has appealed to a broad base of Hawaiians because its primary focus is to impart information—not persuade the Hawaiian people about any one model for sovereignty. Workshop attendees have been citizens of Ka Lahui Hawai'i and the Lawful Kingdom of Hawai'i, delegates from the Native Hawaiian Convention and other Hawaiians not currently affiliated with any specific sovereignty initiative.

There are six agenda items in the workshop. They are: 1) bills/laws/issues impacting Hawaiians; 2) federal reconciliation appointments & December 1999 hearings; 3) federal legislation as the process for reconciliation; 4) how the federal legislative process works; 5) a review of other US Natives experience; and 6) a discussion about possible contents of a Hawaiian Reconciliation Bill. The workshop provides attendees with a basic list, as a tool to enable them to begin inventorying what they feel is a fair and appropriate reconciliation package. They are encouraged to send their lists to the federal appointees and Project Hawaiian Justice.

At the time of the submission of this written testimony, 20 community workshops have been presented. Additionally, the material has been sent to the public access television channels on each of the islands. An additional 8 workshops are planned between the submission of this written testimony and the actual hearing dates. The workshop was developed and is presented with the volunteer work of my sister Robin Danner and myself. Robin Danner has worked in the Inupiat village of Barrow, Alaska for 16 years, with 3 years of service as the Executive Director for the Indian & public housing entities. The many people that make the workshops possible volunteer their time and resources because of a belief that the information is necessary for the Hawaiian people to move forward.

III. Specific Recommendations to the Federal Appointments on Reconciliation As a Result of Feedback from Community Workshops:

There has been excellent feedback from the workshops that reflect community input about the reconciliation terms and process. Outlined below, I will report the specific recommendations we received through the Project Hawaiian Justice outreach and educational workshops:

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- 1) Conduct at least one more round of federal hearings, including open hearings on neighbor islands. Greater advance notice as to the process for the hearings will allow persons, families, communities and organizations to better provide input into the process.
- 2) Some members of the communities have raised concerns over the proposed "roundtable discussions" because the process for determining who will and won't be invited to participate is unclear. It is difficult for people to extend trust of the process in light of their past experiences with federal commissions and hearings. The unanswered questions about how the process will work creates more suspicion and distrust on the part of many Hawaiians.
- 3) Include a representative from the State Department to address those seeking reinstatement of an independent nation.
- 4) Commission an inventory of the lands taken from the Crown at the time of the overthrow. There are an estimated 600,000 acres of Crown and Government lands privatized between the illegal overthrow of the Hawaiian Monarchy and the Annexation of Hawai'i to the United States. The Hawaiian people have clear title to these lands, as the illegal Provisional Government, and subsequent Republic of Hawaii had no legal grounds to privatize them.
- 5) The workshop participants express a strong desire to have all of the lands taken from the Crown at the time of the overthrow to be returned to the Hawaiian Nation. Some express a desire to have all lands in the chain returned to their jurisdiction.
- 6) The workshop participants express a strong desire to maintain regulatory powers over lands not belonging to the Nation, in the event that lands are lost. Issues of water diversion, over development and mismanagement of natural resources and cultural sites have created water shortages, detrimental development and the desecration of cultural and historic sites in each of the islands. By example, many of the rivers and streams on the island of O'ahu no longer contain many of the naturally occurring fish and mussels that once populated the fresh waters. Because one of the central tenants of the Hawaiian culture is "mālama 'aina" (care of the land), regulatory powers on lands lost are imperative to the repair and restoration of the Hawaiian people, culture and language.
- 7) The workshop participants express a desire to have direct control over the management of their trust assets—especially in the area of federal entitlement programs, Office of Hawaiian Affairs assets, and the Hawaiian Home Lands provided for in the Hawaiian Homes Commission Act of 1921. Many feel that the assets, as currently managed, are inaccessible to Hawaiian people because the agencies charged with administering these trusts do not make adequate efforts to meet Hawaiian people where they are in terms of cultural, educational and socio-economic conditions. The Hawaiian Nation should appoint trustees to any private trusts that designate a government appointment process established prior to the overthrow.
- 8) Most participants support the concept of one Hawaiian Nation with local autonomy on each island. Some support the concept of a recognized Nation on each island, with a consortium or federation made up of all, and others support a full and complete restoration of the independent Kingdom of Hawai'i.
- 9) Workshop participants favor the Hawaiian Nation regulating and controlling the oceans surrounding the archipelago to the 200 or 1,000-mile mark. Over-fishing and water pollution is cited as being some of the problems that have led to the demise of the Hawaiian people.

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10) Many workshop participants feel that payment for past use and occupation of the land is appropriate.

IV. Practical Approaches to Meeting Hawaiian Demands

The Hawaiian people have been denied even the minimal rights to self-determination currently afforded to Native Americans and Alaska Natives. For over 100 years, Hawaiians have been forced to adapt to the American way of life in order to achieve the merest semblance of survival as a people. Unlike the Native Americans and Alaska Natives, the Hawaiian people were not isolated from the influences and contact of the mainstream American society for long periods of time. In fact, the Hawaiian people were forced into it, to cope with it, as it widened its spread in our small islands.

Although Congress set aside 200,000 acres of land for Hawaiian Home Lands in 1921, much of those lands went to long term leases with sugar, pineapple and other private producers. Very little of it went to Hawaiians until just recently. There were no reserves on which the Hawaiian people lived, nor have our communities been geographically remote enough to shield us from outside interests and influences. Many Hawaiians were forced to emigrate to the continental United States as a result of economic hardship and the racist policy of having an American Japanese Ancestry (AJA) preference on many of the available jobs at one time. Currently, an estimated 70,000 Hawaiians still live on the "mainland". Still, the Hawaiian peoples continued to know our language, history, cultural practices and beliefs. Much of our original religion is still known.

While not having the little "benefits" of isolation that some of the Native Americans and Alaska Natives have had, the Hawaiian people have been subjected to most every assimilationist policy adopted by the United States over the past 106 years. Hawaiians were prohibited from speaking our Native tongue, worshipping our Native gods, and gathering from traditional sites. Newly introduced concepts such as land taxation and quiet title has created a situation where many Hawaiians lost their privately held lands. The introduction of foreign diseases also ravaged our people, decimating our numbers.

Some Hawaiians feel very strongly that the only appropriate remedy is full restoration of the independent Kingdom of Hawai'i. Others feel that the United States must provide a safe forum for Hawaiians to re-learn self-governance skills before we are ready for full independence. It is with this mana'o (input) in mind that we recommend a two-step process for reconciliation.

Step One: Federal Recognition of a Hawaiian Nation & the Government to Government Relationship Currently Enjoyed by other American Indian and Alaska Native Tribes and Reinscription to the United Nations List of Non-Self-Governing Territories.

Federal recognition of a Hawaiian Nation would afford the Hawaiian people with many of the basic internal sovereignty afforded to other Native peoples inside the United States. It would provide for a recognized governmental body to administer programs and services specifically designed to rehabilitate the Hawaiian people. It would also provide an entity to manage Hawaiian assets, including but not limited to, Hawaiian Home Lands, assets managed by the Office of Hawaiian Affairs and any private trusts established for the care and betterment of Hawaiian peoples. It will serve as a receptacle for additional lands or cash reparations given to the Hawaiian Nation through the federal process.

Current US Indian policy affords Native peoples many of the tools required for repairing much of the devastation that years of assimilationist policy created among the peoples. Included in this relationship should be a federal co-management contract with the Hawaiian Nation of wildlife, national parks, waterways, environmental protection and other applicable co-management responsibilities currently

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afforded to other tribes. The United States should also petition the United Nations on behalf of the Hawaiian people for the reinscription of Hawaii as a non-self-governing territory and de-colonization process. All rights of the Nation and the Hawaiian peoples under international law shall be reserved. We propose that this first step towards reconciliation have a specific duration—50 years or less, as determined by the Hawaiian people.

Step Two: Internationally Recognized Referendum on Self-Determination

At the end of 50 years, or sooner if called for by the Hawaiian people, the United States should support and agree to comply with the results of an internationally recognized self-determination referendum of the Hawaiian people. The referendum should be similar to the one currently used by the UN process of de-colonization. All forms of sovereignty, including but not limited to independence, free-association or nation within a nation, should be considered on the ballot so that the Hawaiian people can make an informed decision about self-determination after having adequate time and control of assets to properly educate ourselves as to what form of sovereignty is most appropriate to meet our needs as a peoples.

V. Conclusion

When I returned to Hawai'i, I fully expected to see my own people in turmoil—I too had heard and read the characterizations of my people as being divided into too many factions. Nothing could be further from the truth. In my travels throughout the islands, in many different communities, Hawaiians agree on the major issues. Workshop attendants represented a large spectrum of the Hawaiian people—those who favored independence, to those who favored a nation within a nation, to those who are still yet undecided. Participants included delegates to the Lawful Kingdom of Hawai'i, Ka Lāhui Hawai'i and the Native Hawaiian Convention. Other organizations represented among the rank of participants were members of the Hawaiian civic clubs, the students of the University of Hawai'i, members of the hula halau (troupes), and staff and leadership of Native housing entities and Native economic development cooperatives. Many folks were unaffiliated Hawaiians just trying to understand the process of reconciliation. Some participants had extensive levels of formal education in their backgrounds, others had very little. The ages ranged from nā kupuna (the elders) to nā opio (the youth).

In terms of the necessary elements for reconciliation, Hawaiians agree on what losses we have suffered as a result of the illegal overthrow of the Hawaiian monarchy and what considerations would be appropriate in order to compensate and/or repair those losses. Hawaiians agree that a critical part of that repair is the opportunity to be self-determining—to control our land, traditional resources and our very existence as a peoples. There is some discussion among our people about the administrative form of sovereignty (i.e. what type of governmental structure to adopt). However, as United States policy and law reflects, that is a natural debate that should occur within our people, and really is not the jurisdiction or concern of the United States. I believe the discussion is a mark of the intelligence within our people. It is certainly not at a level where the United States should use it as a reason not to proceed with the recognition of a Hawaiian Nation.

I am hopeful about the future of our peoples, and our future relations with the United States. I am proud of the wealth of intelligence, information and history the Hawaiian peoples possess. I am, as always, amazed at the prevalence of the spirit of aloha that permeates through our peoples, despite hardship and frustration. I am awed by the diligence required to keep our peoples' culture and language alive in the most adverse of conditions, and by the patient belief in Queen Lili'uokalani's vision that one day the United States would right the wrong done to her people over 100 years ago. Mālama Pono.